

REMARKS

The Non-Final Office Action dated August 20, 2009 has been received and its contents carefully noted. Claims 1-11 were pending and claims 1-6 and 8-11 rejected while claim 7 is merely objected to. Applicants wish to thank the Examiner for the favorable indication of the allowability of claim 7. The Drawings filed July 10, 2006 have been accepted. Applicants also thank the Examiner for acknowledging Applicants' claim for priority and that all certified copies of priority documents have been received.

By this Response, claims 1-11 have been amended for grammatical reasons and to clarify first and second networks. The amendments to claims 1-11 may be further explained below.

The specification has been amended at page 11 to clarify the language of the specification. No statutory new matter has been added. All claim amendments and support for the claims can be found in the application as originally filed.

Claim Objections

An objection was made to claims 8-11. In particular, the Examiner has requested Applicants to replace "device compliant with" with "device according to" in line 11 of original claim 8 and line 29 of original claim 10. The corrections have been made to comply with the Examiner's requirement. Thus, Applicants respectfully request reconsideration and withdrawal of the objection.

Claim Rejections – 35 USC §101

The Examiner has rejected claim 11 as directed to non-compliant subject matter. According to "New Interim Patent Subject Matter Eligibility Examination Instructions" (Interim Instructions) of Acting Deputy Commissioner Andrew H. Hirshfeld, dated August 24, 2009, after the present rejection issued, it is stated at Page 6: "For computer implemented processes, the 'machine' (of a machine or transformation test for non-statutory subject matter) is often disclosed as a general purpose computer. In these cases, the general purpose computer may be sufficiently 'particular' when programmed to perform the process

steps. Such programming creates a new machine because a general purpose computer, in effect, becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from computer software.”

The Examiner has rejected claim 11 as follows: “In specification the applicant states a computer program product can store the program on an electrical or optical signal (page 11, lines 10-16). Electrical or optical signals are non-statutory subject matter. Thus the computer program product in claim 11 is directed to non-statutory subject matter.”

Claim 11 as originally filed is silent about “an electrical or optical signal.” At least for this reason alone, the rejection of claim 11 as comprising non-statutory subject matter should be withdrawn. It is respectfully submitted that claim 11, as amended, relates to “program code instructions of a program for the execution of the process according to claim 10 when said program is executed on a computer having storing space for said program.” Claim 11, as amended, relates to a “particular machine” according to the Interim Instructions and is silent about electrical or optical signal. Claim 11, as amended defines statutory subject matter as it relates to a “special purpose computer” which performs the claimed process of claim 10.

Moreover, the basis for the rejection appears to be now rendered moot because signal subject matter has been cancelled from the specification. The Examiner had stated his rejection as follows: “a computer program product can store the program on an *electrical or optical signal*” per page 11, lines 10-16. However, claim 11 as amended nowhere states such language and the portion of the specification relied on for the rejection is now cancelled by amendment. A signal is not the recited “storing space for said program.” Applicants respectfully request that the rejection of claim 11 for allegedly comprising non-statutory subject matter be reconsidered in view of the amendments to the specification and to claim 11 and the §101 rejection withdrawn.

Claims Rejections – 35 U.S.C. § 102

Claims 1-6 and 10-11 stand rejected as being anticipated by Heitmann (US 7,190,703; hereinafter, Heitmann). The claims have been amended to clarify first and second networks and an intercepting (means) and a forwarding (means) thus clarified as well. The rejection as to claims 1-6 and 10-11 is respectfully traversed.

Regarding amended independent claims 1 and 10, the Applicants have considered the Examiner's interpretation of Heitmann. It is the Examiner's position that Heitmann intercepts a message KD1 (Page 3 of the Office Action) which is seen FIG. 1 from FN, to VE, to LAN, to BS1 and to EG1, where FN is landline network, VE is a switching device with an RTC (real time clock), BS is a base station and EG is a mobile. However, KD1 is communications data, not time information. The Examiner points to col. 5, lines 55-67 and col. 6, lines 1-15 and 43-60 for support, for example, that intercepting means . . . and forwarding . . . as well as respective receiving, exploiting, preparing and sending elements of these claims are anticipated by Heitmann. The Examiner is silent as to what constitutes a first and second network. Consequently, the Examiner has failed to demonstrate a *prima facie* anticipation of claims 1 or 10 on at least these grounds.

It is respectfully submitted that Heitmann deals with synchronizing base stations of a mobile communications network to enable a seamless handover of mobile apparatus between mobile base stations. The base stations synchronize to synchronizing switching device VE and in particular to the real time clock RTC. Consequently, it is respectfully submitted, for example, that Heitmann fails to disclose or suggest "intercepting (means) for intercepting at least one message (MSG) coming from at least one apparatus being a point of the first network and directed to the second network, the apparatus having a specific time clock." Moreover, for example, Heitmann fails to disclose or suggest "forwarding (means) for forwarding the intercepted message to the second network after the preparing (means) has prepared the time request."

Beginning at col. 5, line 57, it is described that a clock transmitter resides in base station; (see, for example, FIG. 2) requiring synchronization. Consequently, a clock adjustment device ZJ of the base station (FIG. 2) outputs a time request message ZA1 to VE. Then, VE responds to the request as follows: "The time information ZI1 is passed on from the network interface NS for the base station BS1 to the receiving device EE, where the time information ZI1 is extracted from a data stream which is received via the local area network LAN and also contains the communications data KD1." The data stream comprises time information ZI1 requested via ZA1 and KD1 which is passing-through communications data. KD1 is thus communications data and not time information data. Moreover, there is no first and second network, only LAN, involved in the request. Base

station BS requests the time data and receives it. It is that simple. There is, for example, no interception and forwarding as recited. At col. 6, lines 43-59, it is clear that the communications data is passed on: “The communications data KD1 that has been temporarily stored in the input buffer store EP is read from this buffer store on the basis of the bit clock BT supplied from the clock transmitter ZTG, and is supplied to the DECT radio station DECT. Finally, from there, the communications data KD1 is transmitted without wires to the mobile terminal EG1.”

Col. 7, lines 48-53 reinforce the separation of time information ZI1 from communications data KD1 and that only LAN is involved: “Although the transmission of time information ZI1, ZI2 and of the communications data KD1, KD2 via the local area network LAN is not time-transparent, the present invention allows adjacent base stations BS1 and BS2 to be synchronized with sufficient accuracy for seamless handover processes.” Consequently, it seems clear that Heitmann operates in a manner whereby a base station request for time information is responded to by switch VE, communications data is passing-through data and neither claims 1 nor 10 describe Heitmann. Reconsideration and withdrawal of the rejection of independent claims 1 and 10 are respectfully requested.

Claim 3 is allegedly anticipated by Heitmann, column 5, lines 35-40. Applicants must respectfully traverse. Claim 3 is patentable for the reasons that claim 1 is patentable and because the referenced citation is entirely deficient of the features of claim 3. This citation appears to relate to software generally and says nothing about a time request, an executable strip or JAVA. The Examiner has not made a *prima facie* showing of anticipation by alluding to an executable strip, C++ and JAVA not taught by Heitmann as “well known.” The features of claim 3 are not inherent. The Examiner is respectfully requested to provide a reference for the recited features of a time request according to claim 3. Reconsideration and withdrawal of the rejection of claim 3 is respectfully requested.

Claim 4 is allegedly anticipated by Heitmann, column 6, lines 24-35 and 43-60. Claim 4 is patentable for at least the reasons that the features of claim 1 are patentable. The Examiner here admits that ZTG is based on ZI1 but fails to recognize that KD1 is communications information different from requested time information ZI1. Claim 4 reads: “said forwarding means is intended to forward said intercepted message to said second network only after the exploiting means has exploited said synchronizing data obtained from

said apparatus by means of said time request.” The Examiner is silent about what constitutes a second network or the time sequence “after” feature. The rejection of claim 5 is equally silent about the claim elements wherein the Examiner relies on the Heitmann citation relied on for claim 4 and world time information being time zone information. Reconsideration and withdrawal of the rejection of claims 4 and 5 are respectfully requested.

Claim 6 has been amended to read the first communications network and as such is not anticipated for at least the reasons that claim 1 is patentable and because Heitmann is silent about the features of claim 6. Reconsideration and withdrawal of the rejection of claim 6 is respectfully requested.

Claim 11 is patentable for the same reasons that claim 10 is patentable. Reconsideration and withdrawal of the rejection of claim 11 is respectfully requested.

Claims Rejections – 35 U.S.C. § 103

At Page 5, the Examiner rejects claims 2 and 8-9 as being unpatentable over Heitmann in view of Godfrey et al. (US2004/0205330; hereinafter, Godfrey).

Claim 8 has been amended to clarify the first and second networks and is patentable at least for the reasons that claim 1 is patentable. The Examiner also admits that Heitmann “fails to disclose local gateway intended to be arranged between a LAN and a WAN and to enable communication in both directions between the LAN and the WAN: a LAN interface for communication with the LAN, a WAN interface for communication with the WAN. Heitmann only discloses a base station arranged between LAN and air interface” and so relies on Godfrey. Godfrey Figure 22 and related text, especially paragraph [00185] states: “the independently modifiable information at the external data store 2082 (FIG. 22, connected to WAN 2004) may maintain synchronization of a plurality of data stores associated with a user. . . through updates sent to the data store 2082 by the wireless connector system 2078 (Corporate LAN) at certain time intervals, each time an entry in the data store 2017 (Corporate LAN) is added or changed, at certain times of the day or when initiated.” There is no disclosure, for example, of the features of claim 1 of intercepting and forwarding or anything other than a WAN/LAN synchronization by “certain time intervals” or initiation by a component. Consequently, it is respectfully submitted that the

Heitmann/Godfrey combination is silent about the features of claim 8/1, for example, intercepting. Reconsideration and withdrawal of the rejection of claim 8/1 is respectfully requested.

The Examiner relies primarily on Heitmann, column 5, lines 55-67, for rejecting claim 9/8/1. Again, claim 9 is patentable for at least the reasons that claims 8 and 1 are patentable. Claim 9 also is patentable for the reason that the Examiner admits that “Heitmann fails to disclose local gateway” and thus, his reliance on Heitmann is misplaced for rejecting gateway claim 9. Consequently, reconsideration and withdrawal of the rejection of claim 9/8/1 is respectfully requested.

The Examiner relies on Godfrey for the features of claim 2 dependent on claim 1: “said intercepting means is intended to intercept said message and said receiving means is intended to receive and extract said synchronizing data in compliance with the HTTP protocol.” Claim 2 is at least patentable for the reasons that claim 1 is patentable. Moreover, Godfrey fails to make up for the deficiencies of claim 1 with respect to the features of claim 2. Firstly, as explained above, Heitmann has no intercepting means feature and neither does Godfrey. Godfrey Figure 22 and paragraph 185 are relied on for synchronization of data between networks and in particular at paragraph [0185] Godfrey states: “For example, the wireless connector system 2078 may post updates or stored information to a resource in the data store 2082 via an HTTP post request.” Consequently, at best, Godfrey may tie HTTP and synchronization (updates). Heitmann/Godfrey is silent about the intercepting feature. Consequently, reconsideration and withdrawal of the rejection of claim 2 is respectfully requested.

CONCLUSION

All of the stated grounds of objections and rejections have been properly traversed, accommodated, or rendered moot. Therefore, it is respectfully requested that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

No fees are believed to be required for this amendment. If any fees are due in connection with the filing of this Amendment, please charge the fees to Deposit Account 070832.

Respectfully submitted,
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